



Wichita-Sedgwick County Metropolitan Area Planning Department

October 23, 2006

Dillon Real Estate Co., Inc.,
2700 East 4th Avenue
Hutchinson, KS 67504

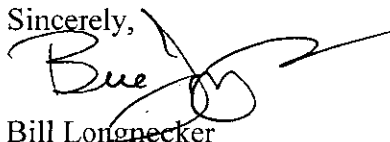
Re: **VAC2006-00010** - Request to vacate a portion of a platted sewer & utility easement, generally located on the northeast corner of 21st Street North & Maize Road.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, October 17, 2006, the Wichita City Council considered the request. The action of the City Council was to APPROVE subject to the recommendation by the MAPC.

If you have any questions about this matter, please call 268-4494.

Sincerely,


Bill Longnecker
Senior Planner

BL:le

cc: Jim Armour, City Engineer, Public Works Department, Mail Stop 1-71
Paul Gunzelman/Carla Jones, Public Works Engineering, Mail Stop 1-71
Pickering Inc., 6775 Lenox Center Court, Suite 300, Memphis, TN 38115
Paul & Eleanor Sade Revocable Trust, % Real Estate Tax #49, P.O. Box 49, Hutchinson, KS 67504
Chadsworth Development, LLC, 2330 N. Maize Road, Suite 1300, Wichita, KS 67205
Countryside West, LLC, P.O. Box 3069, Hutchinson, KS 67504
Spangles, Inc., 437 N. Hillside, Wichita, KS 67214
Jay & Jamie L. Kirk, 2315 N. Crestline Court, Wichita, KS 67205
Todd L & Nancy A Wasson, 2311 N. Crestline Court, Wichita, KS 67205
Isaac & Cindy Gallegos, 2307 N. Crestline Court, Wichita, KS 67205
Brian W. Hoover & Kerry L. Winder, 2303 N. Crestline, Wichita, KS 67205
Stephen C. & Michelle D. Shockley, 2237 N. Crestline, Wichita, KS 67205
City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

www.wichita.gov

RECEIVED

OCT 30 2006

Vacation Order
VAC2006-00010

METROPOLITAN PLANNING
ROUTE ☐ _____

Page 1 of 3

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF
A PORTION OF AN EASEMENT
DEDICATED BY SEPARATE INSTRUMENT**

**GENERALLY LOCATED AT THE
NORTHEAST CORNER OF MAIZE ROAD
AND 21ST STREET NORTH**

MORE FULLY DESCRIBED BELOW

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) **Case No. VAC2006-00010**
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VACATION ORDER

NOW on this 17th day of October, 2006 comes on for hearing the petition for vacation filed by Dillon Real Estate Inc., c/o Richard Russell, praying for the vacation of the following described portion of an easement dedicated by separate instrument (Film 1161, Page 1005), to-wit:

BEING A LEGAL DESCRIPTION OF A PORTION OF AN EXISTING 20-FOOT WIDE UTILITY EASEMENT LOCATED ON LOT 4, CHADSWORTH COMMERCIAL SUBDIVISION, 2ND ADDITION IN WICHITA, SEDGWICK COUNTY, KANSAS, SAID PROPERTY SITUATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 27 SOUTH, RANGE 1 WEST, IN SEDGWICK COUNTY, KANSAS, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 27 SOUTH, RANGE 1 WEST IN SEDGWICK COUNTY, KANSAS, SAID POINT BEING ALSO THE INTERSECTION OF THE CENTERLINE OF 21ST STREET NORTH (PUBLIC, ASPHALT PAVED ROAD, RIGHT-OF-WAY VARIES) AND MAIZE ROAD (PUBLIC, ASPHALT PAVED ROAD, RIGHT-OF-WAY VARIES); THENCE NORTH 00 DEGREES 12 MINUTES 00 SECONDS EAST ALONG THE CENTERLINE OF MAIZE ROAD - 317.35 FEET TO A POINT; THENCE SOUTH 89 DEGREES 48 MINUTES 00 SECONDS EAST - 268.19 FEET TO THE POINT OF BEGINNING OF SAID UTILITY EASEMENT; THENCE NORTH 01 DEGREES 41 MINUTES 09 SECONDS WEST - 296.14 FEET; THENCE SOUTH 65 DEGREES 17 MINUTES 51 SECONDS EAST - 22.33 FEET; THENCE SOUTH 01 DEGREES 41 MINUTES 09 SECONDS EAST - 276.24 FEET; THENCE SOUTH 61 DEGREES 47 MINUTES 27 SECONDS WEST - 22.35 FEET TO THE POINT OF BEGINNING.

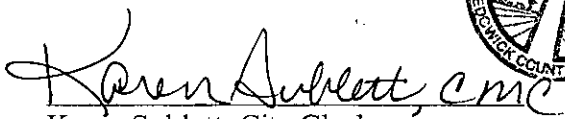
CONTAINING 5,724 SQUARE FEET OR 0.1314 ACRES, MORE OR LESS.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

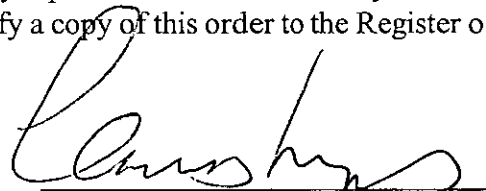
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on March 16, 2006, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above-described portion of the easement dedicated by separate instrument, and the public will suffer no loss or inconvenience thereby.
3. Dedication by separate instrument of a utility easement to be recorded by with the Register of Deeds and petition/guarantee for the relocation of public utilities submitted to Public Works.
4. In justice to the petitioner(s), the prayer of the petition ought to be granted.
5. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.
6. The vacation of a portion of the easement dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 17th day of October 2006 ordered that the above-described portion of an easement dedicated by separate instrument is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

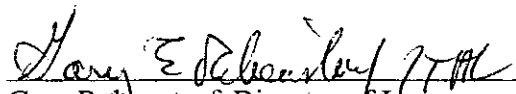
ATTEST:


Karen Sublett, City Clerk




Carlos Mayans, Mayor

Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2006-00010: Request to vacate a portion of a sewer easement dedicated by separate instrument

OWNER/APPLICANT: Dillon Real Estate Co., Inc.

AGENT: Pickering Inc., c/o Cara Martin, PE

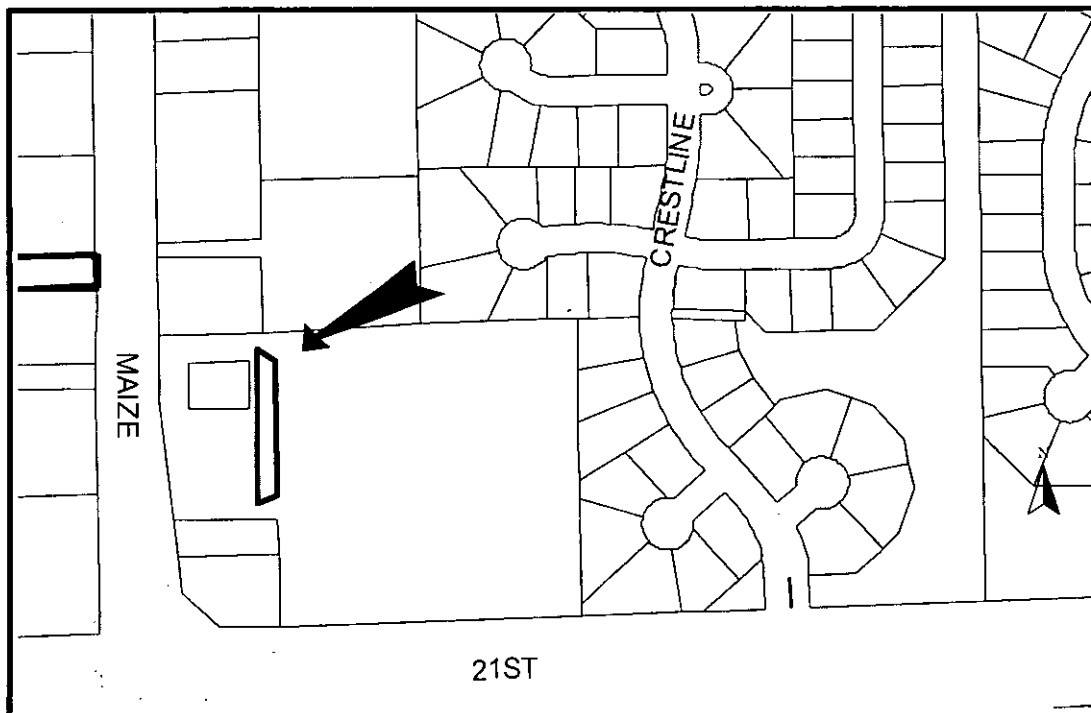
LEGAL DESCRIPTION: Generally described as a portion of the 20-foot wide sewer easement dedicated by separate instrument (Film 1161, Page 1005) located on Lot 4, Chadsworth Commercial 2ND Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the northeast corner of the Maize Road – 21ST Street North intersection (WCC #V)

REASON FOR REQUEST: Proposed westward expansion of existing building

CURRENT ZONING: The subject property and adjacent southern properties are zoned "LC" Limited Commercial. Abutting northern property is zoned "LC" and "SF-5" Single-family Residential. Adjacent property west of the site is zoned "GC" General Commercial and "LC". Property abutting the east of the site is zoned "SF-5". The site is part of CUP DP-204

VICINITY MAP:



The applicant proposes to vacate a portion of the 20-foot sewer easement dedicated by separate instrument, as shown on the applicant's exhibit. The easement does have water and sewer in it. The applicant's exhibit also shows a proposed a 10-foot water and 10-foot sewer easement to protect relocated utilities. The applicant has agreed to provide Public Works with the standard 20-foot wide replacement easements. There is a platted 100-foot building setback line that appears to run parallel to a proposed replacement easement; it will remain in effect. The site is part of CUP DP-204. The Chadsworth Commercial 2nd Addition was recorded with the Register of Deeds August 14, 1995.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the easement dedicated by separate instrument, as described, with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 16, 2006 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above described easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Therefore, the vacation of the portion of the easement dedicated by separate instrument described in the petition should be approved with conditions;

- (1) Provide Staff with a copy of any required additional easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. Replacement easements will be the City standard of 20-feet in width. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a guarantee/petition for the relocation of the water and sewer line and manholes.

- (3) Retain the easements until all utilities have been relocated (or provide a guarantee for relocation of the utilities that has been accepted by the City) and the new easements for the relocated utilities have been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

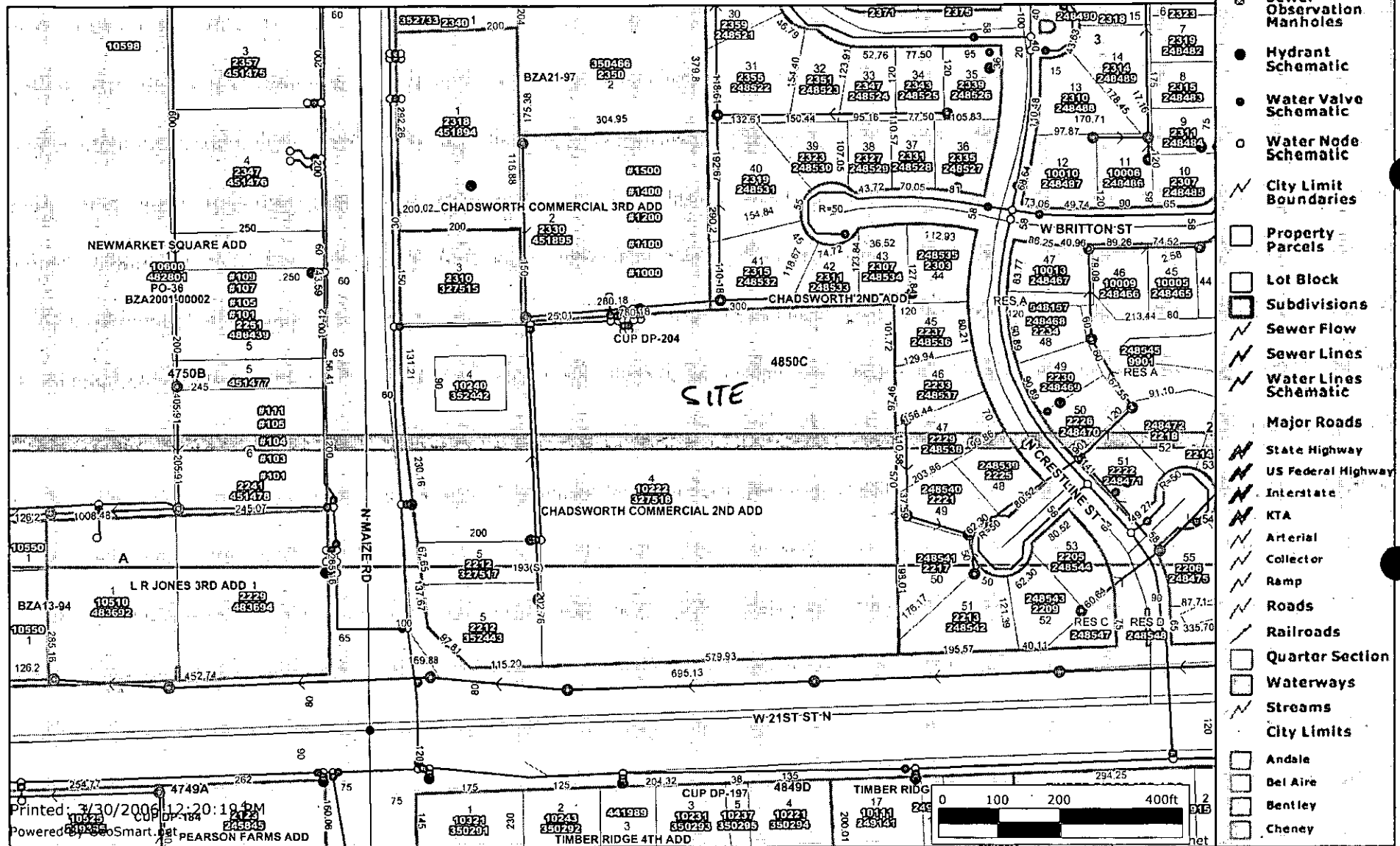
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with a copy of any required additional easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. Replacement easements will be the City standard of 20-feet in width. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a guarantee/petition for the relocation of the water and sewer line and manholes.
- (3) Retain the easements until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

VAC 2006-10

water & sewer

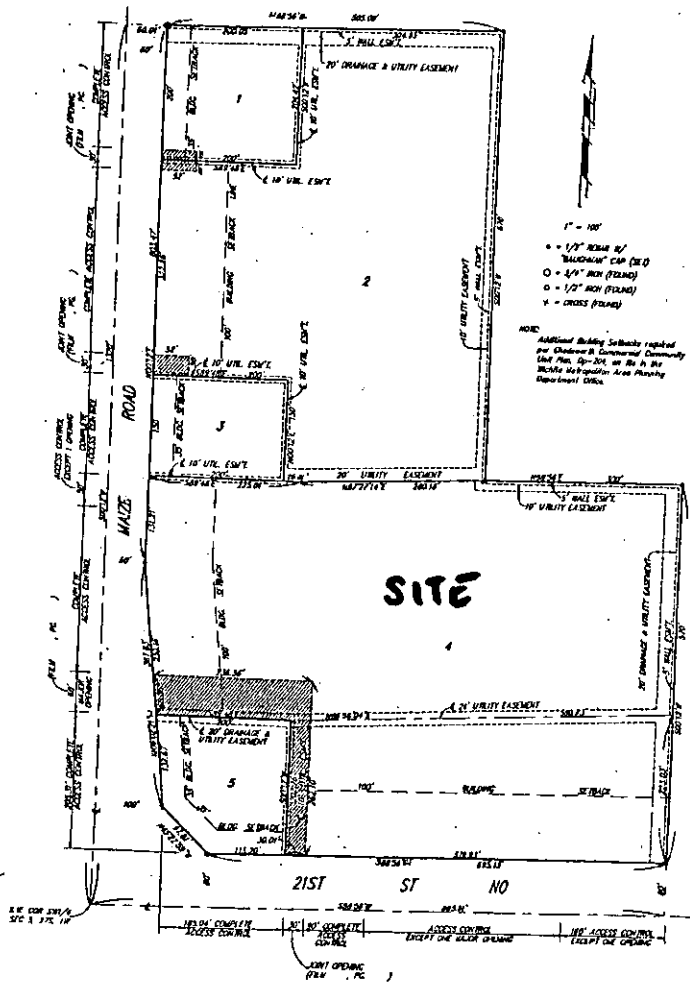


Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



CHADSWORTH COMMERCIAL 2ND ADDITION

WICHITA, SEDGWICK COUNTY, KANSAS



State of Kansas) SS We, Baughman Company P.A., Surveyors in
Sedgwick County) and state do hereby certify that we have surveyed
and plotted "CHADSWORTH COMMERCIAL 2ND ADDITION", Wichita, Sedgwick
County, Kansas, and that the accompanying plot is a true and correct
exhibit of the property surveyed, described as and being a replat of
Lots 1, 2, 3, 4, 5, 6, and 7, Chadsworth Commercial Addition, Wichita,
Sedgwick County, Kansas.

All being situated in the SW 1/4 of Sec. 5, Twp. 27-S, R-1-W
of the 6th P.M., Sedgwick County, Kansas.

Existing public easements and dedications being vacated by
virtue of K.S.A. 12-512(b).

Baughman Company P.A.

Gregory F. Sevens
Surveyor

This plot of "CHADSWORTH COMMERCIAL 2ND
ADDITION", Wichita, Sedgwick County, Kansas has been submitted to
and approved by the Wichita-Sedgwick County Metropolitan Area
Planning Commission, Wichita, Kansas.
Dated this 29th day of June, 1995.
Wichita-Sedgwick County Metropolitan Area Planning Commission.

John W. McKay, Jr. Chairman
Marvin S. Kroul Secretary



This plot approved and all dedications shown
hereon accepted by the City Council of the City of Wichita, Kansas,
this 1st day of August, 1995.



Bob Knight Mayor
Pat Burnett Deputy City Clerk

Know all men by these presents that we,
the undersigned, have caused the land described in the surveyors
certificate to be plotted into lots to be known as "CHADSWORTH
COMMERCIAL 2ND ADDITION", Wichita, Sedgwick County, Kansas. The
utility easements are hereby granted as indicated for the construction
and maintenance of all public utilities. The wall easements are hereby
granted as indicated for the construction and maintenance of a private
screening wall and utility main lines and service lines are allowed to
cross these easements. The drainage and utility easements
are hereby granted as indicated for drainage purposes and for the
construction and maintenance of all public utilities. Access controls
as depicted on the face of the plot are hereby granted to the City of
Wichita, Kansas. The permitted entrance locations shall be as determined
by the City Engineer of the City of Wichita, Kansas.

Bruce A. Pearson
Esther L. Pearson

#1470844

State of Kansas) SS The foregoing instrument acknowledged be-
fore me, this 12th day of July, 1995, by
Bruce A. Pearson and Esther L. Pearson, husband and wife.

Philip J. Meyer Notary Public
My App'l. Exp. 5/5/97

PHILIP J. MEYER
NOTARY PUBLIC
STATE OF KANSAS

State of Kansas) SS This is to certify that this plot has been
Sedgwick County) filed for record in the office of the Register of Deeds, this 11th day
of August, 1995, with a block 24, and is duly
recorded.

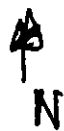
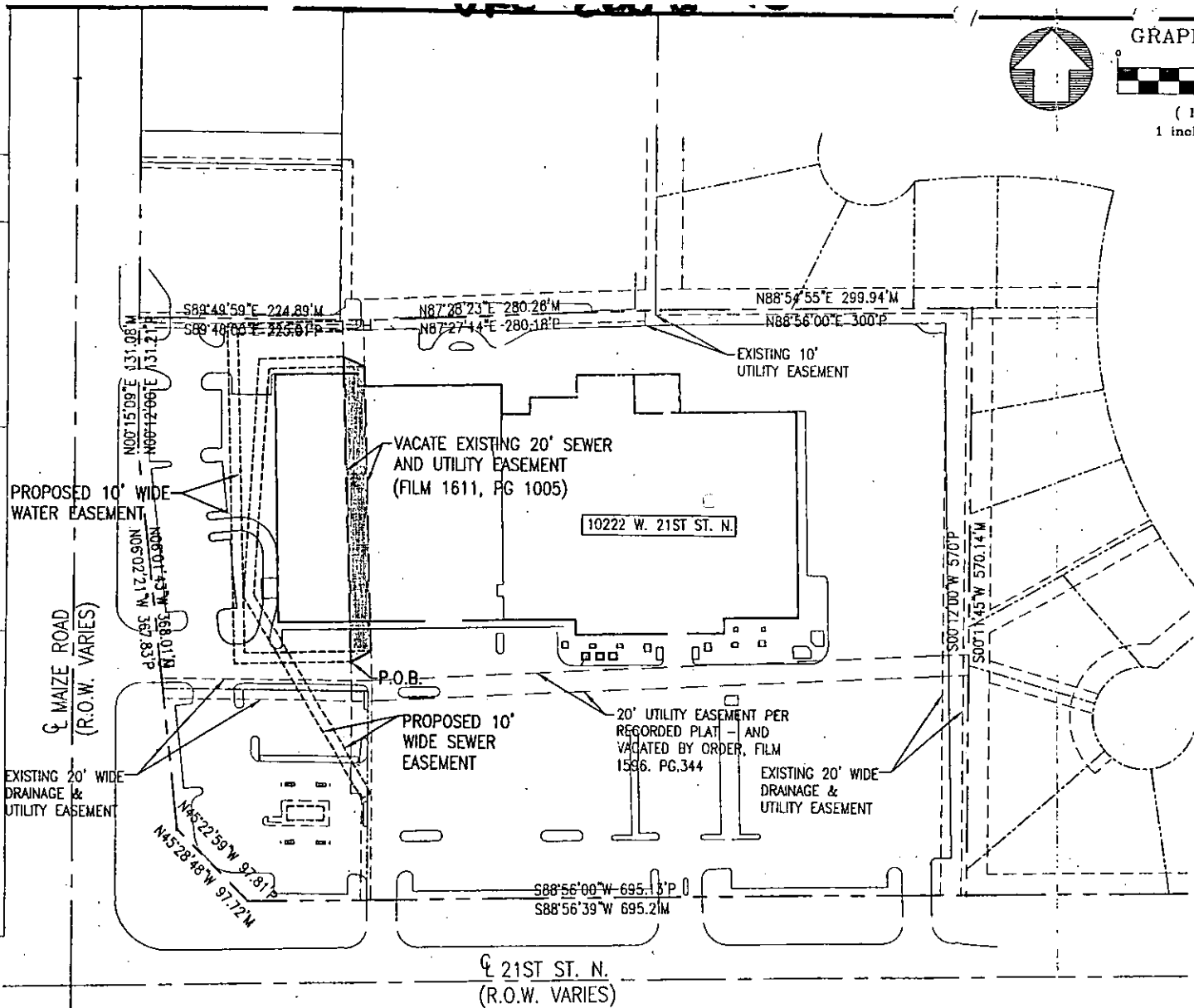
Pat Keller Register of Deeds
Ed Ross Deputy



Susan L. Crockett-Spoon County Clerk



GRAPHIC SCALE
 0 100 150 200
 (IN FEET)
 1 inch = 100 ft



VAC2006-1.0

Planning Architecture
 Engineering Management
 8775 Lenox Center Court
 Memphis, TN 38115
 901.726.0810
 901.272.0911 fax



DILLONS FOOD STORE EASEMENT VACATIONS		WICHITA, KS	
DESCRIPTION EASEMENT VACATIONS	PROJECT /	21047.02	DATE
SCALE 1"=100'			2/02/06
SHEET J		C-1	